

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:

BKY 04-44990

Patrick J. Smithwick,

Chapter 13 Case

Debtor(s).

TRUSTEE'S RESPONSE TO MOTION TO CONVEY REAL ESTATE

TO: All parties in interest pursuant to Local Rule 9013-3:

1. Jasmine Z. Keller, Chapter 13 Trustee (the "Trustee"), by her undersigned attorney, makes the following response to the debtor's Motion to Convey Real Estate (the "Motion").

2. The Court will hold a hearing on the Motion on October 20, 2004 at 9:30 a.m., or as soon thereafter as counsel may be heard, in Courtroom 8 West, United States Courthouse, 300 South 4th Street, Minneapolis, MN.

3. As of October 8, 2004 the debtor has paid a total of \$2,280 to the Trustee. The debtor is current in payments to the Trustee through the month of October 2004.

4. The Motion appears to address all of the statutory requirements for a sale of property of the estate, as set forth in *In re Penniston*, 206 B.R. 948, 950 (Bankr. D. Minn. 1997).

5. The Property is valued by the debtor on Schedule A on file herein at \$475,000. The 2004 estimated market value of the Property for 2005 real estate taxes is \$335,500, according to the Hennepin County Assessor's office, as shown on the website for Hennepin County. Therefore, the selling price appears to be fair and reasonable.

6. The meeting of creditors pursuant to 11 U.S.C. § 341(a) is scheduled for 11:30 a.m. on October 20, 2004, which is two hours after the date and time scheduled for the hearing on the Motion. **The Trustee respectfully requests that the Court stay the entry of the proposed order in this case until 4:00 p.m. on October 20, 2004, with the order to enter at that time unless the Trustee files a notice of nonconcluded meeting of creditors before that time.**

7. The Motion does not expressly state when the sale of the Property is scheduled to close. The debtor must keep the Trustee apprised of the status of the sale and closing of the Property, and promptly remit to the Trustee a check for the amount of the proceeds to be paid to her for distribution in accordance with the proposed Chapter 13

plan, together with a copy of the final closing statement or HUD-1 settlement statement.

8. Subject to the caveat in ¶ 6, **the Trustee does not oppose the court's granting the relief requested in the Motion.**

Jasmine Z. Keller, Chapter 13 Trustee

Dated: October 8, 2004

/e/ Thomas E. Johnson

Thomas E. Johnson, ID #52000

Margaret H. Culp, ID # 180609

Counsel to Chapter 13 Trustee

12 South 6th Street, Suite 310

Minneapolis, MN 55402-1521

(612) 338-7591

VERIFICATION

I, Thomas E. Johnson, employed by Jasmine Z. Keller, Chapter 13 Trustee, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and information.

Dated: October 8, 2004

/e/ Thomas E. Johnson

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
FOURTH DIVISION

In re:

BKY 04-44990

Patrick J. Smithwick,

Chapter 13 Case

Debtor(s).

UNSWORN DECLARATION FOR PROOF OF SERVICE

I, Thomas E. Johnson, employed by Jasmine Z. Keller, Chapter 13 Trustee, declare that on October 8, 2004, I served Trustee's Response to Motion Convey Real Estate on the individual(s) listed below, in the manner described:

By electronic means:

United States Trustee
1015 United States Courthouse
300 South 4th Street
Minneapolis, MN 55415

By first class U.S. mail, postage prepaid:

Patrick J. Smithwick
3634 Rainbow Dr.
Minnetonka, MN 55345

By delivery:

Ian T. Ball, Esq.
Attorney at Law
326 Plymouth Building
Minneapolis, MN 55402

And I declare, under penalty of perjury, that the foregoing is true and correct.

Executed: October 8, 2004

/e/ Thomas E. Johnson